

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CRYSTAL BYRD and BRIAN BYRD,
Individually, and on Behalf of all Similarly
Situated Persons,

Plaintiffs,

Civil No. 1:11-CV-101-SPB

-VS-

AARON'S, INC., et al.

ELECTRONICALLY FILED

Defendants.

RULE 12(b)(2) MOTION TO DISMISS THE THIRD AMENDED COMPLAINT

For the reasons more fully set forth in the accompanying Brief in Support of Rule 12(b)(2) Motion to Dismiss the Third Amended Complaint, Defendant Aspen Way Enterprises, Inc. respectfully requests that this Honorable Court dismiss Plaintiffs' Third Amended Complaint with prejudice for lack of personal jurisdiction over Aspen Way. The Honorable Trial Court has already determined Aspen Way had no general or specific contacts with Pennsylvania that would subject Aspen Way to the jurisdiction of this Court. The Court permitted Plaintiffs to attempt to re-plead their conspiracy claim to establish jurisdiction over Aspen Way. However, Plaintiffs' Third Amended Complaint fails, as a matter of law, to allege adequate facts to establish that this Court has jurisdiction over Aspen Way. Accordingly, Aspen Way requests the Third Amended Complaint be dismissed with prejudice.

The accompanying Brief in Support of Rule 12(b)(2) Motion to Dismiss the Third Amended Complaint is incorporated herein by reference as if fully set forth and re-stated herein.

Respectfully submitted,

/s/ Anthony J. Willlott

Anthony J. Willlott, Esquire
PA I.D. #43684
Attorney for Defendant Aspen Way
Enterprises, Inc.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
Suite 2900, 600 Grant Street
Pittsburgh, PA 15219
ajwilllott@mdwgcg.com
(412) 803.1140
(412) 803.1188 (fax)